

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COMMISSION RECEIVABLES FUND
1, LLC, a Nebraska Limited Liability
Company,

Plaintiff,

v.

TOMMIE E. MCILWAIN SR., and
SENIORS CHOICE INSURANCE
GROUP, INC., an Agency,

Defendants.

8:11CV131

MEMORANDUM AND ORDER

This matter is before the court on the report and recommendation of the bankruptcy court, Filing No. [57](#). During the pendency of this case, plaintiff filed a suggestion in bankruptcy, Filing No. [55](#), with regard to defendant, Tommie E. McIlwain, Sr., who filed a Chapter 7 bankruptcy action in the Western District of North Carolina on November 25, 2011. This court then referred the case to the bankruptcy court. Filing No. [56](#). The bankruptcy court has now reviewed the case. The bankruptcy judge recommended to this court that it withdraw the reference of this adversary case and proceed with the litigation against Seniors Choice Insurance Group, Inc., but stay the case as to the bankruptcy party, Tommie E. McIlwain, Sr. There are no objections to the report and recommendation pursuant to [NEGenR 1.5\(b\)\(2\)](#).

The court finds that pursuant to [28 U.S.C. § 157\(d\)](#) and [NEGenR 1.5\(b\)\(2\)](#) and for good cause shown that the report and recommendation should be adopted in its entirety.

THEREFORE, IT IS HEREBY ORDERED that:

1. The report and recommendation, Filing No. [57](#), is adopted in its entirety.
2. The court hereby withdraws its reference to bankruptcy.
3. The case will proceed against defendant Seniors Choice Insurance Group, Inc.

4. The case is stayed as to Tommie E. McIlwain, Sr., until the automatic stay is no longer in effect or until relief from the automatic stay is requested and obtained from the bankruptcy court.

5. Any motions pending at the time this case was referred to the bankruptcy court may be reasserted within ten days of the date of this order, if the parties so choose. Any responses may likewise be asserted within seven days thereafter.

DATED this 8th day of May, 2012.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.